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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 SAMUEL WYNN,

12 Plaintiff,

13 v.

14 B. MOSS, et al.,

15 Defendants.  
16

No. 2:21-CV-1317-KJM-DMC-P

ORDER

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42  
18 U.S.C. § 1983. Plaintiff is now deceased and a motion to substitute parties filed by Diana Akins  
19 is pending. See ECF No. 46. Defendants have filed an opposition, see ECF No. 49, and Ms.  
20 Akins has filed a reply, see ECF No. 50.

21 In her motion to substitute, Ms. Akins states that she is the deceased Plaintiff's  
22 mother and seeks to substitute as the plaintiff in this action. See ECF No. 36. In opposition,  
23 Defendants assert that Ms. Akins' motion is procedurally defective in terms of state law  
24 establishing that she is a proper substitute party. See ECF No. 49. In reply, Ms. Akins, who is  
25 herself proceeding pro se, states that she was unaware of the legal requirements to establish  
26 entitlement to substitute as the plaintiff in this case and seeks leave to file a renewed motion  
27 consistent with the rules outlined in Defendants' opposition. See ECF No. 50. Good cause  
28 appearing therefor, the Court will deny Ms. Akins pending motion to substitute without prejudice

1 to renewal. In the meantime, the Court will stay proceedings pending filing and resolution of Ms.  
2 Akins' renewed motion.

3 Accordingly, IT IS HEREBY ORDERED as follows:

4 1. Ms. Akins' motion to substitute, ECF No. 46, is DENIED without prejudice  
5 to renewal.

6 2. Ms. Akins shall file a renewed motion to substitute within 30 days of the  
7 date of this order.

8 3. This action is STAYED pending resolution of Ms. Akins' renewed motion  
9 to substitute.

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11 Dated: August 26, 2024



12 DENNIS M. COTA  
13 UNITED STATES MAGISTRATE JUDGE  
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